

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

National Carpet Equipment, Inc.

Plaintiff,

Civil No. _____

v.

Pat. # 6,609,762

Equipment Development Company, Inc.
d/b/a EDCO

Defendant

COMPLAINT FOR PATENT INFRINGEMENT

Now comes National Carpet Equipment, Inc., for its complaint of patent infringement against Equipment Development Company, Inc. d/b/a EDCO.

THE PARTIES

1. Plaintiff National Carpet Equipment, Inc. ("NCE") is a Minnesota Corporation with its principal place of business located at 9250 Xylon Avenue North, Minneapolis, Minnesota 55445.

2. Defendant Equipment Development Company, Inc. d/b/a EDCO ("EDCO") is a Maryland corporation with its principal place of business located at 100 Thomas Johnson Drive, Frederick, Maryland 21702.

JURISDICTION AND VENUE

3. This is a complaint for patent infringement under 35 U.S.C. §§ 101, *et seq.* and 271, *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over defendant EDCO because EDCO has purposefully availed itself of the privilege of doing business in the State of Minnesota by offering for sale and selling a self-propelled tile stripper to customers who reside in, or may be found in, Minnesota.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) because EDCO is subject to personal jurisdiction in this judicial district, has regularly conducted business in this judicial district and certain acts complained of herein occurred in this judicial district.

THE PATENT-IN-SUIT

6. On August 26, 2003, the United States Patent and Trademark Office issued U.S. Patent No. 6,609,762 (hereinafter the “‘762 Patent”) to Martin Anderson for a “Walk Behind Floor Stripping Machine With Hydraulic Drive.” A copy of the ‘762 Patent is attached as Exhibit A to this Complaint.

7. Mr. Anderson assigned his rights in the ‘762 Patent to NCE Acquisitions Corporation. NCE Acquisitions Corporation changed its name to National Carpet Equipment, Inc. Attached as Exhibit B to this Complaint is a true and correct copy of Patent Abstract Assignment of Title for the ‘762 Patent.

COUNT I: INFRINGEMENT OF '762 PATENT

8. NCE hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

9. The '762 Patent is valid and enforceable.

10. Upon information and belief, in violation of 35 U.S.C. § 271, EDCO, without NCE's permission, makes, uses, offers for sale, sells within the United States and/or imports into the United States products that infringe the '762 Patent, including EDCO's 12" Electric Self Propelled Tile Stripper under the mark SELF PROPELLED TILE SHARK. Exhibit C to this Complaint is a true and correct copy of the "Operator's Instruction Manual" for the SELF PROPELLED TILE SHARK.

11. Upon information and belief, in violation of 35 U.S.C. § 271, EDCO also contributes to and/or induces infringement of the '762 Patent.

12. NCE has placed the required statutory notice on all of its products manufactured and sold by NCE under the '762 Patent. Therefore EDCO has constructive notice that NCE's marked products were patented. Upon information and belief, EDCO has actual knowledge of the '762 Patent as of the date of service of this Complaint.

13. Upon information and belief, EDCO's acts of infringement of the '762 Patent will continue after service of this Complaint unless enjoined by the Court.

14. As a result of EDCO's infringement, NCE has suffered and will suffer damages.

15. NCE is entitled to recover from EDCO the damages sustained by NCE as a result of EDCO's wrongful act in an amount subject to proof at trial.

16. Unless EDCO is enjoined by this Court from continuing to infringe the '762 Patent, NCE will suffer additional irreparable harm and impairment of the value its patent rights. Thus, NCE is entitled to an injunction against further infringement.

WHEREFORE, Plaintiff National Carpet Equipment, Inc. requests judgment be entered in its favor and that the following relief be granted:

1. That Equipment Development Company, Inc. has infringed U.S. Patent No. 6,609,762;

2. That Equipment Development Company, Inc., its officers, agents, employees, representatives, successors and assigns and those acting in privity or concert with it be preliminarily and permanently enjoined from further infringement of the '762 Patent;

3. That Equipment Development Company, Inc. be ordered to pay damages adequate to compensate National Carpet Equipment, Inc. for Equipment Development Company, Inc.'s infringement of the '762 Patent pursuant to 35 U.S.C. § 284, including an accounting;

4. That the Court declare this an exceptional case and that National Carpet Equipment, Inc. be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

5. That Equipment Development Company, Inc. be ordered to pay National Carpet Equipment, Inc.'s costs associated with this action.

6. That National Carpet Equipment, Inc. be granted prejudgment and post judgment interest on the damages caused by reason of Equipment Development Company, Inc.'s acts of infringement; and

7. Such further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to the Federal Rules of Civil Procedure 38(b), National Carpet Equipment, Inc. hereby demands a trial by jury.

Date: April 24, 2009

s/Peter G. Nikolai

James T. Nikolai (#144,101)

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**ATTORNEYS FOR PLAINTIFF
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EXHIBIT A